DEPARTMENT OF DEFENSE

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DEPARTMENT OF DEFENSE Office of the Senior Tribal Liaison

Preparing for Base Realignment and Closure (BRAC)

1. Excess Property (Federal)
2. Surplus Property (Local Reuse Authorities can include Tribes)
3. All BRAC actions should be reviewed for tribal natural and cultural resource interests.
4. Consultations with Tribes may be required

Consultation "Triggers"

- Trust Obligations
- Laws where BRAC may apply to Tribes:
  - NHPA, ARPA, NAGPRA, AIRFA, NEPA
- Executive Pronouncements:
  - EO's: Sacred Sites, Consultation, EJ, Preserve America, Cooperative Conservation
  - Pres. Memos on Gov't-to-Gov't Relations
- Treaty Reserved Rights

Why Consultation?

- An obligation of federal agencies
- DoD and each of the services have policy requirements and guidelines
- Mandated in laws, amendments, executive orders, regulations, policies
- Based on recognition of tribal sovereignty
- Sound management policy

DOD American Indian & Alaska Native Policy

- Signed by Defense Secretary William Cohen in October 1998
- Acknowledges DoD's trust responsibility;
- Implements the President's 1994 Memorandum on Government-to Government relations;
- Clarifies legal requirements; and
- Stresses the importance of early consultation

What is Consultation?

- Exchange of views
- Process
- Government-to-government
- May or may not involve agreement
- Defined in laws, amendments, executive orders, etc.
- Origins in tribal sovereignty as acknowledged in U.S. Constitution

Consultation Steps

1. Prepare planning document
2. Determine consulting partners
3. Make contact with consulting partners
4. Arrange for consultation meeting
5. Hold consultation meeting
6. Repeat step 5 as needed
7. Come to agreement (or not)